

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JEREMY RUSS,

Petitioner,

v.

Case No. 07-C-232

**GREG GRAMS,
Warden, Columbia Correctional Institution,**

Respondent.

ORDER ON THE HABEAS CORPUS PETITION

Jeremy Russ (“Russ”), is a prisoner incarcerated pursuant to a Wisconsin state court judgment and seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Under Rule 4 Rule of the Rules Governing Section 2254 Cases, this court must make a preliminary examination of the petition. If the court finds that “it plainly appears from the face of the petition and any exhibits annexed to it that the petitioner is not entitled to relief in district court, the judge shall make an order for its summary dismissal.” Rule 4, Rules Governing Section 2254 Cases.

Russ seeks relief on three related grounds. Russ is deaf and has been so since birth. He communicates largely through sign language or mime. Russ pled guilty to one count of second degree sexual assault and one count of indecent exposure. At his sentencing hearing, Russ was handcuffed and shackled. The court refused to order the restraints removed despite defense counsel’s request. Russ argues that being handcuffed and shackled prohibited him from communicating thereby (1) depriving him of his constitutional right to be present at his sentencing; (2) denying him the effective assistance of counsel; (3) depriving him of the right to due process.

From a review of the petition, the court cannot say that it plainly appears that the petitioner is not entitled to relief. Therefore, the state will be required to answer the petition. In doing so, the respondent should address the issues of timeliness, exhaustion, and procedural default, if applicable.

IT IS THEREFORE ORDERED that a copy of Russ's petition and this order shall be served upon the respondent by service upon the State of Wisconsin Attorney General.

IT IS FURTHER ORDERED that the respondent shall answer the petition within **30 days** after service of the petition.

Dated at Milwaukee, Wisconsin this 19th day of March, 2007.

s/AARON E. GOODSTEIN
U.S. Magistrate Judge